



U.S. Pat. Appl. Ser. No. 09/795,701
Our File No. 5578

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Robert E. Rafferty GROUP: 3677
SERIAL NO.: 09/795,701 EXAMINER: Ruth C. Rodriguez
FILED: February 28, 2001
FOR: METER BOX LOCK ASSEMBLY

Honorable Commissioner of
Patents and Trademarks
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APPEAL BRIEF

Pursuant to 35 U.S.C. §134 and 37 C.F.R. §§1.191, 1.192 and 1.196, Appellants' respectfully appeals to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1, 2 and 6-8.

1. REAL PARTY IN INTEREST

The real party in interest in the present case is the Assignee, Inner-Tite Corp.

2. RELATED APPEALS AND INTERFERENCES

The present application has no pending related appeals or interferences.

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3. STATUS OF CLAIMS

Claims 1, 2 and 6-8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Nielson, JR (U.S. 4,080,811) in view of Redmayne (U.S. 4,202,574).

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4. STATUS OF AMENDMENTS

No amendments after the final rejection have been filed.

5. SUMMARY OF THE INVENTION

In accordance with claim 1 and with reference for example to the embodiment illustrated in Figures 1-3, the present invention is directed to a lock assembly 26 for use with a utility box 10 having a bottom 12, a side wall 14 and a cover 16 which may be opened to gain access to the interior of the box. The lock assembly comprises a bracket 28 having first and second mutually spaced flanges 30, 32 integrally joined by an intermediate web 34. A jaw 38 is mechanically interengaged with and carried by the bracket for movement between the flanges 30, 32.

The bracket is configured for removable mounting on the box side wall 14, with the intermediate bracket web 34 interposed between the box cover 16 and the upper side wall edge, and with the first flange 30 and jaw 38 respectively located adjacent to exterior and interior surfaces of the box side wall.

A force exerting means 52 urges the jaw 38 towards the flange 30 to thereby clamp the box side wall 14 therebetween. A cap 54 has a lip 56 configured and dimensioned to overlap the cover 16, and an interlocking means 64 secures the cap to the bracket.

In accordance with claim 2, the box side wall is provided with an interior ledge 18 spaced below the upper wall edge, and the jaw 38 engages the side wall below the ledge 18.

In accordance with claim 6, and as shown for example in Figure 5A and 5B, the jaw is pivotally connected to the second flange.

In accordance with claim 7, the second flange 32 is inclined at an acute angle with respect to the first flange 30.

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In accordance with claim 8, a third flange 36 projects from the first flange 30, and is engaged by the interlocking means 64.

6. ISSUES

The issue before the Board in this appeal is whether the Examiner was correct in rejecting claims 1, 2 and 6-8 under 35 U.S.C. 103(a) as being unpatentable over Nielson, JR in view of Redmayne.

7. GROUPING OF CLAIMS

For the purpose of this appeal, claims 1, 2 and 6-8 stand or fall together.

8. ARGUMENT

Applicant does not quarrel with the examiner's assessment of Nielson JR., which lacks a jaw or its equivalent carried by bracket 21 for movement between the flanges 23, 38.

The examiner attempts to remedy this deficiency by combining Nielson JR with Redmayne, and it is this attempted combination that applicant disputes.

To begin with, Redmayne's bracket 26 is mounted on a depending flange 20 of the lid, and thus is not configured for mounting on the container side wall 14, as called for by claim 1. The Redmayne bracket also lacks a jaw that is moveable between the bracket flanges 29, 32, and that is responsive to a force exerting means to exert a clamping force on the container side wall. To the contrary, the bracket flange 32 is merely urged into an abutting (as opposed to clamping) relationship with the container side wall.

By attempting to equate Redmayne's lid 18 and integral lid side wall 20 to applicant's bracket flanges, and by referring to Redmayne's bracket 26 as a jaw, the examiner is simply

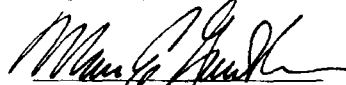
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misreading and distorting the reference into something other than what it is. It is respectfully submitted that it would not occur to one skilled in the art to somehow combine the teachings of Redmayne into the Nielson JR lock assembly, for any attempt to do so would require substantially redesigning one or the other of these references. Without the benefit of hindsight gained by first reading applicant's disclosure, any such combination would be unobvious, to say the least.

Thus, to summarize, Nielson JR discloses a bracket carried by and urged into a clamping relationship with a box side wall, but without the claimed jaw or its equivalent carried by one of the bracket flanges, and Redmayne discloses a bracket carried by the container lid and urged into an abutting relationship with the container side wall, again without the claimed jaw or its equivalent carried by one of the bracket flanges.

In light of the foregoing, applicant respectfully requests that the Board of Patent Appeals and Interferences revise the Examiner's final rejection of claims 1, 2 and 6-8.

Respectfully submitted,



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9. APPENDIX

APPEALED CLAIMS

1 1. (Previously Amended) For use in combination with a utility box having a bottom,
2 a side wall, and a cover which may be opened to gain access to the interior of the box, and which
3 when closed, overlaps an upper edge of the side wall, a lock assembly for maintaining the cover
4 in its closed portion, said lock assembly comprising:

5 a bracket having first and second mutually spaced flanges integrally joined by an
6 intermediate web;

7 a jaw mechanically interengaged with and carried by said bracket for movement between
8 said first and second flanges, said bracket being configured for removable mounting on said side
9 wall, with said intermediate web interposed between said cover and the upper edge of said side
10 wall, and with said first flange and said jaw respectively located adjacent exterior and interior
11 surfaces of said side wall;

12 force exerting means for urging said jaw towards said first flange to thereby clamp said
13 side wall therebetween;

14 a cap having a lip configured and dimensioned to overlap said cover; and

15 interlocking means for securing said cap to said bracket.

1 2. (Original) The lock assembly of claim 1 wherein the side wall of said box is
2 provided with an interior ledge spaced below said upper edge, and wherein said jaw engages said
3 side wall beneath said ledge.

1 6. (Original) The lock assembly of claim 1 wherein said jaw is pivotally connected
2 to said second flange.

1 7. (Original) The lock assembly as claimed in claim 1 wherein said second flange is
2 inclined at an acute angle with respect to said first flange.

1 8. (Original) The lock assembly as claimed in claim 1 wherein said bracket is
2 provided with a third flange projecting from said first flange, and wherein said interlocking
3 means engages said third flange.